

**REMARKS**

Currently amended independent Claim 10 and newly presented independent Claim 11 are presently the only claims in this case. Claim 11 is the same as amended Claim 10, except that it explicitly claims a spirit level, and was added for claim differentiation purposes.

The personal interview which the Examiner kindly granted to Applicant's representative on February 7, 2006, is acknowledged with appreciation.

In the outstanding Office Action, the Examiner rejected Claim 10 as being anticipated by the newly cited Gutowski et al U.S. patent 3,871,110 and withdrew the previous obviousness rejection of Claim 10. This is the only rejection of Claim 10. Since Claim 11 has the same limitations as Claim 10, both claims are discussed together herein, and it is submitted that Claim 11 is patentable for the same reasons that amended Claim 10 is patentable.

**Rejection under 35 USC §102b**

In the Office Action the Examiner rejected the sole claim 10 as being anticipated by the US. Gutowski et al. patent 3,871,110. With respect to this reference, the Examiner stated as follows:

[The reference] discloses the device as claimed where: **10** is a web with a recess including vial supports **12**; **32** are annular retainer clips that have a horseshoe shaped recess **36**; and the retainer clips may be slidably displaced along vial **20** and the retainer clips snap fit onto the vial support (see col. 2, 43-50).

**Response**

The present invention as now claimed relates to a hand tool having a plastic molded web portion, a level vial, and specifically claimed elements for attaching the level vial to the web portion. The attaching elements include a recess in the web, the recess being defined by a peripheral wall; vial supports integrally molded with the peripheral wall; and a pair of annular retainer clips that can be slidably displaced along the level vial and have notches that are snap fitted onto the vial supports. Thus, the present invention is claimed as having the vial retainer clips mounted directly onto the web.

As thus claimed, the present invention provides significant advantages over the prior art. Firstly, the hand tool is much less expensive to manufacture because its web is molded of a plastic material. This type of manufacture permits the lugs to be molded integrally to the web and to have the specifically claimed widened tip. Making a widened tip is easy in the molding of plastic parts. The lugs are received in and rigidly fixed to the retainer clips that have a slot with a claimed narrow neck and widened horseshoe shaped recess. The snap-fitting arises because the narrow neck of the retainer clip slot must be forced apart to permit entry of the enlarged tip of the lug. Because of the claimed snap-fit connection, the critical rigid mounting of the vial to the hand tool web can be obtained and accuracy maintained in an inexpensive, molded hand tool.

The newly cited Gutowski et al patent discloses a hand tool 10 with a METAL web 12 (Col. 1, lines 52-55 of the patent) and a level vial mounting mechanism that includes two annular retainer clips 32 with a recess or notch 36. Gutowski solves the problem of mounting a level vial on the metal web and his approach is dictated by this fact. The metal web is punched and Gutowski's retainer clips at one end have an inwardly projecting lip and a pair of opposite U-shaped slots for sliding onto the web at the

same time as the inwardly projecting lips snap fit over the end of a level vial. As clearly shown in Fig. 2, the bottom retainer clip 32 is engaged with the end of the vial, and not with web 12 as in the present claims. This mounting of the retainer clips to the vial and not to the metal web is clearly shown at the top of the figure where the wall of the top retainer clip 32 is shown deformed from a rectangle into a trapezoid in cross-section. Thus the wall of the retainer clip is at an angle with level vial 20 on which it has been mounted to a middle portion of the vial, but before it has been slid to the end of the vial.

Another important difference between the claimed invention and the reference is that notch 36 of the reference is U-shaped, with two parallel walls, as seen in Fig. 5, and thus is not horseshoe shaped. As shown in Fig. 3, notch 36 is received by the planar edge of web 12 itself, and thus must have straight walls so that the retainer clip can engage the planar walls of the web 12. A horseshoe shaped slot would not provide the proper engagement of the retainer clip with the walls of the metal web 12 of the reference. Because the retainer clips are mounted directly to web 12, this reference does not disclose any lugs. It would be very difficult and expensive for metal to be shaped with integral lugs having an enlarged tip, the tip would undergo

metal fatigue and break off easily, and there would be no reason to do so because as stated above, the metal web is configured by the inexpensive step of stamping. Thus there would be no incentive to modify the reference, let alone no teaching to do so.

As a result of the enumerated differences between the present claims and the Gutowski et al. patent, it is clear that amended Claim 10, and hence Claim 11, cannot be anticipated by the reference. Furthermore, because of the advantages of the presently claimed invention and the limitations of the reference, as stated above, it is also clear that the tool disclosed in the Gutowski et al. patent could not be modified and this reference could not be combined with another reference so as to render the present claims obvious.

#### **CONCLUSION**

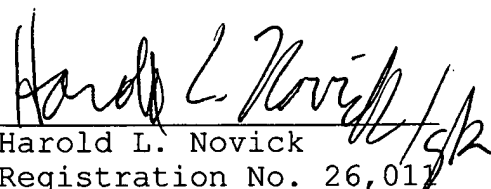
For the foregoing reasons, which were set forth during the interview, it is submitted that Claims 10 and 11 are patentable over the cited reference. Accordingly such action is respectfully requested. However, should the Examiner have any questions, it is requested that he telephone the undersigned so that prosecution of this application can be expedited.

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